

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

In re:

William Yancy and
Elizabeth Yancy
(Debtor)

)
)
) Chapter 13
)
)
) 11-45171
)
)
) Judge Schermer
)

DENIED

Jun 06, 2011

Barry S. Schermer
BARRY S. SCHERMER
United States Bankruptcy Judge

MOTION TO RECONSIDER DISMISSAL AND REINSTATE CASE

Now comes the Debtor, Donald Ward, through his attorney, Douglas M. Heagler, to present a Motion to Reinstate Case, and in support thereof state as follow:

1. That on May 17, 2011, Debtors filed a petition for relief under chapter 13 of the U.S. Bankruptcy Code.

2. Debtor's had a previous case, 11-42577, which was filed on March 21, 2011, that was dismissed with a 180 day bar against re-filing due to Debtors missing both scheduled 341 hearings per 11 USC 109g.

3. On May 17, the Debtors counsel filed a motion asking the court to lift the 180 day bar against filing this present case. The court denied the Debtors motion to lift the 180 day citing six (6) previous bankruptcy filings in the past 15 years, the sixth case being 11-42577.

4. The Debtors are asking the court to reconsider its dismissal of the present and reinstate the present case. A foreclosure sale date has been set on the Debtor's residence for June 16, 2011.

5. In support Debtors state that if reinstated their plan would allow the family to keep their home and pay back their mortgage and other secured creditors, however if the Debtors are barred from filing a case for 180 days, they expect their house will be lost to foreclosure. It is an equitable result for a missed hearing to result in the Debtors loss of their residence for their family of four dependent children. It is even more inequitable of a result if the bar is in place for not announcing presence at the 1:00 time, even though they were present.

6. Debtors further state that they did attend the second scheduled 341 hearing in the present case and were present at the courthouse at 1:00. However Debtors advised counsel that they did not announce their presence to the Trustee's hearing officer. Counsel was not present at the 341 hearing until 2:30 as the matter was already near the end of the docket and he was at a non-bankruptcy matter. Debtors believe it is likely that if they had announced their presence at the 1:00 roll call, they would have been given a new hearing date.

7. Debtors waited at the 341 hearing location, but had to leave at approximately 3:00 to pick up their children. Debtors counsel said he was asked for a new hearing date. Even though Debtor had previous bankruptcy cases, they did not expect and therefore did not have alternate plans for the post school care of their children.

8. If the court will reinstate the present case, Debtors intend to have a wage order in place and will gladly agree to any strict compliance terms the court wishes to set regarding the 341 hearing or Trustee payments.

9. Debtors are current to the Trustee and have the funds to make their First Trustee payment on hand. Debtors have also paid the filing fee for the present case.

WHEREFORE, based on the above facts, and to avoid a great inequity to the family of the Debtors, Debtor's attorney, Douglas M. Heagler, hereby requests that this Honorable Court issue an order:

A. Reinstating the Chapter 13 case.

Respectfully Submitted,

/s/ Douglas M. Heagler
Douglas M. Heagler, Fed #115112
6302 N. Rosebury, Ste. 1W
Clayton, MO 63105
(314) 599-8425
dheagler@freshstartbk.com

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NOTICE OF FILING

To: John V. LaBarge, Jr., Attorney at Law, P.O. Box 430908, St. Louis, MO 63143
Office of the U.S. Trustee, 111 S. 10th Street, 6th Fl, St. Louis, MO 63102
William and Elizabeth Yancy, 551 Calumet Ranch Trail, St. Peters, MO 63376

SEE ATTACHED LIST

Please take notice that on or before June 3, 2011. I caused the attached Motion to be filed with the Clerk of the U.S. Bankruptcy Court for the Eastern District of Missouri, Eastern Division, at 111 S. 10th St., St. Louis, MO

/s/ Douglas M. Heagler
Douglas M. Heagler, Fed #115112
6302 N. Rosebury, Ste. 1W
Clayton, MO 63105
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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
ST. LOUIS DIVISION

IN RE: William T. Yancy
Elizabeth Ann Yancy

CASE NO. 11-42577

CHAPTER 13

Certificate of Service

CERTIFICATE OF SERVICE

I, Douglas M. Heagler, do hereby certify that I served a copy of this Notice along with the attached Motion upon the parties listed on the service list, by causing the same to be mailed in a properly addressed envelope, postage prepaid, on or before June 3, 2011 or by electronic service.

Date: 6/3/2011

/s/ Douglas M. Heagler
Douglas M. Heagler
Attorney for the Debtor(s)

ADV RECOVERY
GIQP
106OAKBROOK COURT
BRANDON, MS 39042

Cash net USA
xxxx
200 West Jackson St., Ste 1400
Chicago, IL 60606

DEPT OF ED/SALLIE MAE
xxxxxxxxxxxxxxxxxxxx1107
PO BOX 9635
WILKES BARRE, PA 18773

AMS SERV LLC
xxxxxxxx3424
3874 WALDEN AVE ST ATTN
CUSTOMER SERV
DEPEW, NY 14043

CHASE
xxxxxxxx5410
201 N WALNUT ST # DE1-10
WILMINGTON, DE 19801

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xxxxxxxxxxxxxxxxxxxx1209
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AT&T
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Tupelo, MS 38803

Citi
xxxx
P.O. Box 0649
Carol Stream, IL 60132

DEPT OF ED/SALLIE MAE
xxxxxxxxxxxxxxxxxxxx0602
PO BOX 9635
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Bounce Busters
xxxx
323 Hwy K
#503
O Fallon, MO 63368

City and Village Tax Office
xxxx
3 Hollenberg Court
Bridgeton, MO 63044

DEPT OF ED/SALLIE MAE
xxxxxxxxxxxxxxxxxxxx0619
PO BOX 9635
WILKES BARRE, PA 18773

Budget Credit Inc
xxxx
13165 71 Hwy
Grandview, MO 64030

Collector of Revenue
xxxx
21 N. Second Street
Ste. 134
Saint Charles, MO 63301

DEPT OF ED/SALLIE MAE
xxxxxxxxxxxxxxxxxxxx0202
PO BOX 9635
WILKES BARRE, PA 18773

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
ST. LOUIS DIVISION

IN RE: William T. Yancy
Elizabeth Ann Yancy

CASE NO. 11-42577

CHAPTER 13

Certificate of Service
(Continuation Sheet #1)

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NCO
xxxx
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Sandberg, Phoenix
xxxx
First City Centre
15th Floor
Saint Louis, MO 63101

GEMB/WALM
xxxxxxxxxxxx8522

NEIGHBORS CREDIT UNION
xxxx4142
6300 S LINDBERGH BLVD
SAINT LOUIS, MO 63123

South and Assoc.
800 Market St, Ste 1600
Saint Louis, MO 63101

Hsbc Bank
xxxx
P.O. Box 5253
Carol Stream, IL 60197

NYS HIGHER ED SERVICES
xxxxxxxx --xxxx3855
99 WASHINGTON AVE
ALBANY, NY 12210

St. Charles Clinic
xxxx
P.O.Box 795100
Saint Louis, MO 63179

IFS
Insolvency
P.O. Box 66778
Sop 5334STL
St. Louis, MO 63166

Payday loan yes
xxxx
4001 South 700, East #500
Salt Lake City, UT 84107

St. Dominic Hospital
xxxx
P.O. Biox 24056
Jackson, MS 39225

LOU FUSZ MOT
xxxx435H
10950 PAGE AVE
SAINT LOUIS, MO 63132

Platinum protection
xxxx
580 S. State St.
Orem, UT 84058

United cash loan
2511
2533 N Carson St. Ste. 502
Carson City, NV 89706

Missouri Department of Revenue
Bankruptcy Unit
P.O. Box 475
301 W. High Street
Jefferson City, MO 65105-0475

Quest Diagnostics
xxxx
P.O. Box 740698
Cincinnati, OH 45274

United Cash Loan
7285
3531 P St. NW
Miami, OK 74355

N.A.R. INC
xxxxxxxx0488
10 W BROADWAY STE 610
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Rainbow Loan
xxxx
802 S. Florissant
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WILLIAM W SIEGEL ASSOC
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